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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1968

No. 834

CATHERINE T. PENDERGRAFT ..... Appellant

vs.

STATE OF MISSISSIPPI ..... Appellee

PETITION FOR REHEARING

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PETITION FOR REHEARING

The Appellant, Mrs. Catherine T. Pendergraft, respectfully petitions this Honorable Court for a rehearing of the appeal in the above entitled cause, and in support of this petition, represents to the Court as follows:

1. That this Court on the 21st day of April, 1969, declined to note probable jurisdiction on the point raised by appeal and declined to grant certiorari on the point raised, Justice Douglas dissenting.

2. That the question raised in Appellant's Jurisdictional Statement, as to the statutory exclusion of women from her grand and petit jury panels, presented to this Court for the first time whether a woman, after both indictment and conviction by the all-male jury panel, had been deprived of due process and equal protection of the laws by the complete statutory exclusion of females from jury service.

3. That to Appellant's knowledge, the only other time this question had been presented to this Court by a woman was in *Hall v. State of Mississippi,* certiorari denied, 385 U.S. 98 (1966), but the distinction of that,

case being that Mrs. Virginia Hall had not been convicted, nor even tried, at the time this Court considered her question, since the nisi prius court, Lee County, Mississippi, had sustained a motion to quash her indictment.

4. That Appellant first raised this question in 1966, at which time three states, Mississippi, Alabama and South Carolina, arbitrarily excluded women, by statute, from jury service; that, since that time and subsequent to Appellant's trial in January, 1967, all three of these states have now amended their statutes to permit members of the female sex to serve on juries; that these changes obviously indicate that there existed a serious and substantial constitutional question as to the arbitrary exclusion of women, as a class, from jury service; that this Appellant, as a female, should not now be penalized nor deprived of the right to have this Court consider the constitutionality of the statutory exclusion of females, as a class, from the panels of both the Grand and Petit juries which considered her case solely because the State of Mississippi has remedied the defective situation, and if such be the case Appellant humbly and respectfully asks that this Court so state by written opinion.

5. That this Court granted certiorari in *Cardinale v. Louisiana*, No. 76, on the October 1968 docket of this Court, which is still pending, wherein the question was raised whether Cardinale was denied due process by the admission of evidence of other crimes in his confession; that, over the objection of this Appellant, evidence of prior crimes and difficulties were introduced during her trial through the State's witness, Marie Tucker; that this was error constituting a substantial Federal question which Appellant now raises, although not previously presented to this Court in the jurisdictional statement.

CONCLUSION

That this Court should grant a rehearing in this cause, note probable jurisdiction on Point One, grant certiorari on Point Two and reverse and remand for proper indictment by a grand jury composed of members of the female sex.

Respectfully Submitted,

MRS. CATHERINE T. PENDERGRAFT

BY: .....

CERTIFICATE

I, W. S. Moore, of counsel for Appellant, do certify that the foregoing petition is presented in good faith; not for the purpose of delay and that said petition insofar as it relates to certiorari is restricted to the grounds specified that are substantial although not previously presented.

W. S. MOORE